

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762)	WT Docket No. 06-150
and 777-792 MHz Bands)	
)	
Revision of the Commission's Rules to Ensure)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency)	
Calling Systems)	
)	
Section 68.4(a) of the Commission's Rules)	WT Docket No. 01-309
Governing Hearing Aid-Compatible Telephones)	
)	
Biennial Regulatory Review – Amendment of Parts 1, 22, 24,)	WT Docket No. 03-264
27, and 90 to Streamline and Harmonize Various Rules)	
Affecting Wireless Radio Services)	
)	
Former Nextel Communications, Inc. Upper 700 MHz)	
Guard Band Licenses and Revisions to Part 27 of the)	WT Docket No. 06-169
Commission's Rules)	
)	
Implementing a Nationwide, Broadband, Interoperable)	
Public Safety Network in the 700 MHz Band)	
)	PS Docket No. 06-229
Development of Operational, Technical and Spectrum)	
Requirements for Meeting Federal, State and Local Public)	
Safety Communications Requirements Through the Year 2010)	
)	WT Docket No. 96-86

**REPLY COMMENTS OF
THE SPECTRUM COALITION FOR PUBLIC SAFETY**

I. Introduction

In comments filed in this proceeding, public safety entities across the country overwhelmingly object to the proposal to grant control of the non-narrowband spectrum in the 700 MHz public safety band to a single national entity, even one intended to represent public safety interests. State and local public safety agencies acknowledge the diversity of their needs and resources; it is this very diversity that underlies the view among state and local entities that a

single national entity cannot protect all of their varying interests. In order to ensure that public safety spectrum meets the needs of those that it is intended to serve, the Commission should continue to license state and local public safety entities as sanctioned by the 700 MHz Regional Planning Commissions (“RPCs”). The National Planning Committee, as proposed and detailed in our initial Comments in this proceeding,¹ could serve as a central, national entity to ensure nationwide interoperability, to take advantage of commercial technologies for public safety purposes, and to achieve several other Commission objectives.

II. Licenses for All Public Safety Spectrum Should Remain with State and Local Entities, as Sanctioned by the Regional Planning Committees

The Commission has proposed the creation of a single entity to hold the nationwide license for the non-narrowband public safety spectrum in the 700 MHz band; that single entity would represent and protect the interests of state and local public safety agencies.² Already, however, well before the national entity is formed and negotiations with vendors for a nationwide network begin, state and local public safety organizations are objecting, concerned that the national entity will not adequately represent them. Even before it gets started, the national organization is hobbled, because it lacks the support of many of the public safety entities whose interests it will be tasked with representing.

This is not an issue about which regional, state and local public safety entities are uncertain. As the RPC for Region 33 (Ohio) wrote,

¹ Comments of the Spectrum Coalition for Public Safety at 8-12 (May 23, 2007).

² Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Ninth Notice of Proposed Rulemaking*, FCC 06-181, ¶¶ 20-26 (rel. Dec. 20, 2006).

Ohio concludes, and not at all tentatively, that one sole broadband network will only hamper our ability to provide service to our user agencies.³

Sharing this concern, the Chairman of the Region 54 RPC asked, “If there is one license under one control and RPCs were left out of any of the decision process, who then would voice concerns and needs of the local spectrum users?” The Idaho Statewide Interoperability Executive Council provided the answer: “[T]he current band plan for 700 MHz wireless data operation should remain under the control of the public safety communications experts at the RPC level.”⁴

State and local public safety entities recognize that a single national organization could not represent them all. “One single public/private network cannot meet all these unique needs.”⁵ Though a national licensee would be tasked with protecting “public safety,” it is clear that “public safety” is not now and will not become monolithic: it will always be a collection of diverse interests with diverse needs. If the spectrum were controlled by a national licensee as proposed, argues the City of New York, “Agencies will have no recognizable right, such as a license, to protect their interests.”⁶ A national public safety licensee in negotiations with a vendor to build out a national network in public safety spectrum would be required to compromise, accepting service provider conditions that are supported by some agencies but rejected by others. If one agency needs particular capabilities and has the funds to pay for them, but another agency has neither the need nor the funds for those capabilities, which agency’s interest will the

³ Comments of the Region 33 (Ohio) 700 MHz Planning Committee at 4 (May 23, 2007).

⁴ Comments of the Idaho Statewide Interoperability Executive Council (“SEIC”) at 2 (May 22, 2007).

⁵ Comments of Jefferson County, Alabama at 2 (May 23, 2007).

⁶ Comments of the City of New York at 7 (May 23, 2007).

national licensee protect? For some public safety agencies, as the City of New York points out, “[t]here is a danger that public safety will be forced to use networks that will not meet their needs or are too expensive for daily operations.”⁷ For those public safety entities whose interests are compromised by the national public safety licensee, the public safety spectrum dedicated to the national network will be lost.

The concerns about national control of public safety spectrum are particularly valid in light of the absence of any compelling argument in the record explaining why the license for the spectrum must be held by a single entity. As the Spectrum Coalition for Public Safety explained in its initial Comments, the single national public safety entity should be a National Planning Committee that would not hold a spectrum license and would provide significant benefits to state and local agencies.⁸ This National Planning Committee would help coordinate the state and local usage of the 700 MHz non-narrowband public safety spectrum, including, for example, facilitating roaming agreements, addressing equipment verification and validation, negotiating bulk purchasing agreements, and most importantly, ensuring national interoperability. Typically comprised of state and local public safety communications systems operators, the RPCs are better able to be responsive to state and local agency needs than any single national entity possibly could be. Also importantly, state and local public safety entities express greater confidence that the RPCs—rather than a new national public safety licensee—will protect their interests.⁹

⁷ *Id.* at 8.

⁸ Comments of the Spectrum Coalition for Public Safety at 8-12 (May 23, 2007).

⁹ In their comments, state and local public safety entities have proposed a variety of approaches to salvage local control of public safety spectrum, reducing or eliminating the control of the proposed national entity. Many insist that state and local entities retain control of at least a

To address the valid concerns state and local public safety agencies expressed in their comments, the Commission should continue to license spectrum to state and local public safety agencies as coordinated and sanctioned by the RPCs. Retaining the ability to sanction spectrum usage will allow the RPCs to exercise real control in the protection of state and local public safety agencies, not relegating the RPCs to seek authorization from a national entity for “flexibility” to meet the needs of public safety agencies in their own regions. Though it is true that a vendor seeking to deploy a network in public safety spectrum would be required to negotiate with each RPC, leaving the ability to sanction spectrum usage with the RPCs is the only way to ensure that a commercial-built public safety network in public safety spectrum is valuable and used by state and local public safety entities. It is critical that whatever networks occupy public safety spectrum, they must be used by the state and local public safety agencies. If the networks are not used by certain public safety entities for whatever reason (such as price, exclusion of required applications, etc.), then the spectrum will be lost to those public safety entities, a result nobody wants. However, if control of the spectrum—the licenses themselves—remains in the hands of those whose needs Congress intended the spectrum to serve, then the spectrum will assuredly meet its purpose.

portion of the spectrum; the size of the portion varies. *See, e.g.*, Comments of the City and County of San Francisco at 6 (suggesting that RPCs control no less than 75 percent of the spectrum). Others, such as King County, Washington, oppose any national control whatsoever: “The spectrum should remain in the control of the RPCs.” Comments of King County, State of Washington at 2 (May 18, 2007). In fact, as the Spectrum Coalition for Public Safety has already demonstrated, 30 MHz of spectrum is needed for broadband data for public safety alone, excluding any commercial capacity needed during emergencies. “Public Safety Spectrum: How Much Do We Need for Data?” attached to letter from Bill Butler, Spectrum Coalition for Public Safety, to Marlene H. Dortch, FCC Secretary, WT Docket No. 05-157 (Oct. 27, 2005).

III. Conclusion

For the reasons set forth above, the Spectrum Coalition for Public Safety urges the Commission to continue to grant licenses for 700 MHz public safety spectrum to state and local public safety entities as sanctioned by the 700 MHz Regional Planning Commissions, to refrain from licensing the spectrum to a national public safety licensee, and to create a National Planning Committee to facilitate the use of and the interoperability within the public safety non-narrowband spectrum. The Commission should foster the development of public/private partnerships for the deployment and operation of a national network of public safety networks within the non-narrowband spectrum, but in this important effort, the Commission must not reduce the ability of state and local public safety entities to obtain communications services that meet their specific needs. State and local agencies *are* “public safety,” it is the state and local agencies that the spectrum is designated to serve, and it is the state and local agencies that must have the leverage to negotiate and ultimately determine the acceptability of any deal offered by a vendor as part of a public/private partnership.

Respectfully submitted,

/s/

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